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## NOTICE OF ALLOWANCE AND FEE(S) DUE

50086

7590

09/22/2009

LAW OFFICE OF DAVID H. JUDSON  
15950 DALLAS PARKWAY  
SUITE 225  
DALLAS, TX 75248

EXAMINER

MIRZA, ADNAN M

ART UNIT

PAPER NUMBER

2445

DATE MAILED: 09/22/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,871

04/14/2004

Andrew T. Davis

101

6176

TITLE OF INVENTION: METHOD OF LOAD BALANCING EDGE-ENABLED APPLICATIONS IN A CONTENT DELIVERY NETWORK (CDN)

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	12/22/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail** **Mail Stop ISSUE FEE**  
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**P.O. Box 1450**  
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**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

50086 7590 09/22/2009  
**LAW OFFICE OF DAVID H. JUDSON**  
**15950 DALLAS PARKWAY**  
**SUITE 225**  
**DALLAS, TX 75248**

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nonprovisional	NO	\$1510	\$0	\$0	\$1510	12/22/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
MIRZA, ADNAN M	2445	709-226000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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LAW OFFICE OF DAVID H. JUDSON  
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## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 452 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 452 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability****Application No.**

10/823,871

**Examiner**

ADNAN MIRZA

**Applicant(s)**

DAVIS ET AL.

**Art Unit**

2445

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/16/2009.
2. ☒ The allowed claim(s) is/are 19,20 and 23-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/NIVEK SRIVASTAVA/  
Supervisory Patent Examiner, Art Unit 2445

### EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it must be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with David Judson on 08/07/09.

Please amend claim 19 and cancel claim 21 and 22.

### **Listing of Claims**

19. (currently amended) A machine-implemented method operative in a content delivery network (CDN) including a set of CDN servers, each CDN server provisioned with a manager process together with an application server on which one or more web applications are capable of being loaded and executed, comprising:

for each CDN server and its respective manager process, identifying values for (i) a flit-capacity, and (ii) a memory capacity, where a flit is an arbitrary unit of work representing resource usage on the CDN server;

using the values to generate a weighted mapping of web applications to manager processes for the set of CDN servers such that the flit and memory capacities for each CDN server are not exceeded, and wherein the weighted mapping of web applications to manager processes balances flits across the set of CDN servers; and

servicing requests at the CDN servers in proportion to the weighted mapping; and

re-generating the weighted mapping of web applications to manager processes for the set of CDN servers if the flit values across the set of CDN servers becomes unbalanced.

20. (previously presented) The method as described in claim 19 wherein the weighted mapping of web applications to manager processes is also a function of application server memory capacity on each CDN server.

21. (cancelled)

22. (cancelled)

23. (previously presented) The method as described in claim 19 wherein the flit represents non-bandwidth resource usage at a CDN server.

24. (previously presented) The method as described in claim 23 wherein the flit is CPU utilization.

25. (previously presented) The method as described in claim 19 wherein the weighted mapping of web applications to manager processes requires a given web application to be loaded onto the CDN server.

26. (previously presented) The method as described in claim 19 wherein the weighted mapping of web applications to manager processes requires a given web application to be unloaded from the CDN server.

27. (previously presented) The method as described in claim 19 wherein the set of CDN servers are co-located.

28. (previously presented) The method as described in claim 19 wherein a given request is serviced at by an instance of a web application loaded and executing on a given CDN server.

### *Reasons for Allowance*

1. Claims 19-20 and 23-28 will be allowed.
2. The following is an examiner's statement of reasons for allowance.

The prior art references most closely resembling the applicant's claimed invention are Melchione (2004/0006586) et al and Ulrich et al (U.S. 7,054,927).

First Melchione disclosed a system for distributing software components to nodes distributed throughout a network. As illustrated in Figure 2, an application service provider provides services for administrating instances of the software 212 via a data center 232. A particular instance of the software might be a software release that needs to be delivered to one or more of the nodes in the network. Melchione failed to disclose "using the values to generate a weighted mapping of web applications to manager processes for the set of CDN servers such that the flit and memory capacities for each CDN server are not exceeded, and wherein the weighted mapping of web applications to manager processes balances flits across the set of CDN servers; servicing requests at the CDN servers in proportion to the weighted mapping; and re-generating the weighted mapping of web applications to manager processes for the set of CDN servers if the flit values across the set of CDN servers becomes unbalanced" (claim 19).

Second Ulrich disclosed a dynamically distributed file system. Among other features, the system proactively positions objects for initial load balancing and then continuously to position objects in a manner to accomplish active load balancing for the existing objects throughout the system. However Ulrich failed to disclose “using the values to generate a weighted mapping of web applications to manager processes for the set of CDN servers such that the flit and memory capacities for each CDN server are not exceeded, and wherein the weighted mapping of web applications to manager processes balances flits across the set of CDN servers; servicing requests at the CDN servers in proportion to the weighted mapping; and re-generating the weighted mapping of web applications to manager processes for the set of CDN servers if the flit values across the set of CDN servers becomes unbalanced” (claim 19).

In summary, the Examiner submits that neither Melchione, nor Ulrich teaches all the limitations of independent claims in combination with other elements. Specifically prior art does not teach “using the values to generate a weighted mapping of web applications to manager processes for the set of CDN servers such that the flit and memory capacities for each CDN server are not exceeded, and wherein the weighted mapping of web applications to manager processes balances flits across the set of CDN servers; servicing requests at the CDN servers in proportion to the weighted mapping; and re-generating the weighted mapping of web applications to manager processes for the set of CDN servers if the flit values across the set of CDN servers becomes unbalanced”; therefore, claims 19-20, 23-28 have been deemed allowable over the prior art.



Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adnan Mirza whose telephone number is (571) 272-3885. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Vivek Srivastava can be reached on (571)-272-7304. The fax phone numbers for the organization where this application or proceeding is assigned are listed herein below. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for un published applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445